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12

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION**
15

16 CRNOGORSKA PLOVIDBA A.D.
17 KOTOR,

18 Plaintiff,

19 vs.

20 GLOBAL AMERICAN TRANSPORT
21 LLC,

22 Defendant,

23 and

24 INMOTION HOSTING, INC.; BANK
25 OF AMERICA, N.A.,

26 Garnishees.
27

Case No. 2:24-cv-07601-AB-AGR

IN ADMIRALTY, Fed. R. Civ. P. 9(h)

**FIRST AMENDED VERIFIED
COMPLAINT FOR:**

1. **BREACH OF MARITIME
CONTRACTS**
2. **PROCESS OF MARITIME
ATTACHMENT AND
GARNISHMENT
(SUPPLEMENTAL RULE B)**

28 Crnogorska Plovidba A.D. Kotor ("Kotor" or "Owners") hereby pursuant to
Fed. R. Civ. P. 15 amends its complaint and brings this action against Global
American Transport LLC ("GAT" or "Charterers") *quasi in rem* pursuant to
Supplemental Rule B for Certain Admiralty and Maritime Claims, requesting
issuance of process of maritime attachment and garnishment, including against
Garnishees, and states as follows:

Jurisdiction and Venue

1
2 1. This is an action within the Court's admiralty jurisdiction pursuant to 28
3 U.S.C. §1333 and is an admiralty or maritime claim within Fed. R. Civ. P. 9(h).
4 Kotor further brings this action pursuant to 9 U.S.C. §§ 1, 8 for security for
5 maritime arbitration which Kotor has initiated against GAT in London pursuant to
6 vessel charter parties for the ocean cargo vessels M/V DVADESETPRVI MAJ
7 and M/V KOTOR ("Vessels") between Kotor and GAT as more fully detailed
8 below.

9 2. Venue is proper in this District because Garnishees can be found in
10 this District and therefore Defendant's property is located in this District.

11 3. Defendant cannot be found in this District within the meaning of
12 Supplemental Rule B(1) and LAR B.2.

13 4. Kotor brings this action in support of and to secure its claims against
14 GAT, which Kotor initiated in London Maritime Arbitration against GAT as
15 provided by charter parties for the vessels. The charter parties are governed by
16 English law.

The Parties

17
18 5. Kotor is a company organized under the laws of the Montenegro at all
19 relevant times was the registered owner of the Vessels.

20 6. GAT is a Delaware LLC.

21 7. Garnishee Inmotion Hosting, Inc. is a California corporation which
22 maintains the website of GAT and also by information and belief holds additional
23 property of GAT, including but not limited to electronic documents and data.

24 8. Garnishee Bank of America, N.A. is a national bank with offices and
25 branches in this District which Kotor, on information and belief, reasonably
26 believes hold accounts or property of and/or owing to GAT.

27 //

28 //

Facts

M/V DVADESETPRVI MAJ

9. Pursuant to a charterparty dated 29 September 2022 (as amended or supplemented, by Addendum No.1 and Addendum No.2, together the “Charterparty”), concluded on an amended NYPE 1981 form with rider clauses, Kotor/Owners agreed to let and GAT/Charterers agreed to hire the M/V “DVADESETPRVI MAJ” (“Vessel”) for a period of about four (4) to about six (6) months, where “about” meant +/- 15 days in Charterers’ option.

10. Pursuant to an Addendum No. 1 concluded on 13 January 2023 (“Addendum No. 1”), the parties agreed to amend the Charterparty so that, among other things, the Charterparty period was extended by “about 4 up to about 6 months (“about” shall mean +/- 15 days in Charterers’ option) commencing on and from expiration of the minimum period under Charter Party dated 29 September 2022 on 9th February, 2023...”.

11. Pursuant to an Addendum No. 2 circulated by way of an email dated 28 June 2023 (“Addendum No. 2”), the parties agreed to amend the Charterparty so that, among other things, the Charterparty period was further extended by a “further period of min 3 mos to abt 6 mos in chop” [CS / 41].

12. The full Charterparty is relied upon including the following materially relevant express terms:

2. The Charterers, while the vessel is on hire, shall provide and pay for all the fuel except as otherwise agreed, port charges including agency fees, compulsory and customary, pilotages, towages, canal dues, canal tolls, wharfages, stevedore charges, municipality and state taxes, tallymen, cranemen, hatch watchmen and gangway watchmen if compulsory, boatage on Charterers business only, agencies for clearance cargo purpose and other Charterer’s business only, commissions, consular charges (except those pertaining to individual crew members or flag of the vessel), and all other usual expenses . . .

* * *

1 4. The Charterers shall pay for the use and hire of the said
2 vessel at the rate of USD 14,000 per day including overtime...

3 * * *

4 5. Payment of hire shall be made in cash so as to be received
5 by Owners or their designated payee in Montenegro ... in United
6 States Currency on the due date, semi-monthly in advance
7 (Payment of hire will be transferred to Owners or their designated
8 payee in funds available to Owners on due date), and for the last
half month or part of same the appropriate amount of hire, and
should same not cover the actual time, hire shall be paid for the
balance day by day as it becomes due, if so required by Owners.

9 13. Following the Vessel's redelivery on 28 February 2024, Owners
10 presented to Charterers their final statement of account requesting payment of
11 the outstanding sums due under the Charterparty in the amount of USD
12 228,437.10 ("Outstanding Sum").

13 14. In breach of the terms of the Charterparty and without lawful
14 justification, Charterers have failed to pay the Outstanding Sum due and owing
15 to Owners.

16 15. Kotor/Owners have damages as the result of GAT's/Charterers'
17 breach of the charter party of the M/V DVADESETPRVI MAJ in the amount of at
18 least USD 228,437.10 and interest pursuant to section 49 of the U.K. Arbitration
19 Act 1996, security for which Owners demand below.

20 **M/V KOTOR**

21 16. Pursuant to a charterparty dated 14 June 2022 (as amended or
22 supplemented by Addendum No 1 and Addendum No 2, together the
23 "Charterparty"), concluded on an amended NYPE 1981 form with rider clauses,
24 Kotor/Owners agreed to let and GAT/Charterers agreed to hire the M/V "KOTOR"
25 ("Vessel") for a period of about 10 months to about 12 months in Charterers'
26 option, where "about" meant +/- 15 days.

27 17. Pursuant to an Addendum No. 1 concluded on 24 March 2023
28 ("Addendum No.1"), the parties agreed to amend the Charterparty so that,

1 among other things, the Charterparty period was extended by “about 5 (five) to
2 about 7 (seven) months (about is +/- 15 days in Charterers option) in direct
3 continuation after current voyage, counting from dropping last outward sea pilot
4 Port Sudan.” Pursuant to an Addendum No. 2 circulated by way of an email dated
5 4 August 2023 (“Addendum No.2”), the parties agreed to amend the Charterparty
6 so that, among other things, the Charterparty period was further extended by
7 “abt 4 / abt 6 months (abt is +/- 15 days in chopt)”.

8 18. The full Charterparty is relied upon including the following materially
9 relevant express terms:

10 2. The Charterers, while the vessel is on hire, shall provide and
11 pay for all the fuel except as otherwise agreed, port charges
12 including agency fees, compulsory and customary, pilotages,
13 towages, canal dues, canal tolls, wharfages, stevedore charges,
14 municipality and state taxes, tallymen, cranemen, hatch watchmen
15 and gangway watchmen if compulsory, boatage on Charterers
16 business only, agencies for clearance cargo purpose and other
Charterer’s business only, commissions, consular charges (except
those pertaining to individual crew members or flag of the vessel),
and all other usual expenses . . .

17 * * *

18 4. The Charterers shall pay for the use and hire of the said vessel
19 at the rate of USD 20,100 per day including overtime . . .

20 5. Payment of hire shall be made in cash so as to be received by
21 Owners or their designated payee in Montenegro ... in United
22 States Currency on the due date, semi-monthly in advance
23 (Payment of hire will be transferred to Owners or their designated
24 payee in funds available to Owners on due date), and for the last
half month or part of same the appropriate amount of hire, and
should same not cover the actual time, hire shall be paid for the
balance day by day as it becomes due, if so required by Owners.

25 19. Following the Vessel’s redelivery on 8 March 2024, Owners
26 presented to Charterers their final statement of account requesting payment of
27 the outstanding sums due under the Charterparty in the amount of USD
28 591,605.25 (“Outstanding Sum”).

1 20. In breach of the terms of the Charterparty and without lawful
2 justification, Charterers have failed to pay the Outstanding Sum due and owing
3 to Owners.

4 21. Further, during the course of the Charterparty and as a result of
5 Charterers trading the Vessel, hold cleaning and painting works were rendered
6 to the Vessel in Turkey on 21 October 2023 by KARUM MÜHENDİSLİK ENERJİ
7 ENDÜSTRİYEL GERİDÖNÜŞÜM TAŞIMACILIK İTHALAT İHRACAT MONTAJ
8 TAAHHÜT İŞLERİ SANAYİ VE TİCARET ANONİM ŞİRKETİ ("Karum Marine")
9 and agency services provided to the Vessel by A.RIZA KINAY VAPUR
10 ACENTELİĞİ VE TİCARET ANONİM ŞİRKETİ ("Kinay Agency").

11 22. Because of GAT's failure to pay, Karum Marine arrested the M/V
12 KOTOR in July 2024 and Owners had to pay a further USD 64,350 (USD 62,000
13 to the arresting parties and USD 2,350 to correspondents) for release of the
14 Vessel.

15 23. As a result, Owners suffered further loss and their business was
16 further disrupted because of the arrest of the Vessel.

17 24. Owners have damages as the result of the breach of the charter party
18 of the M/V KOTOR in the amount of at least USD 655,955.25 and interest
19 pursuant to section 49 of the U.K. Arbitration Act 1996, security for which Owners
20 demand below.

21 **Specific Allegations - Garnishees**

22 25. **Inmotion**: A search on the ICANN "Whois" registry shows that GAT
23 keeps its website, domain and related data with Garnishee Inmotion Hosting,
24 Inc., as follows:

25 Name: GATRANSPORTLLC.COM
26 Registry Domain ID: 2344164476_DOMAIN_COM-VRSN
27 Domain Status: active
28 Nameservers:
NS.INMOTIONHOSTING.COM
NS2.INMOTIONHOSTING.COM

Dates

Registry Expiration: 2024-12-17 19:16:16 UTC

Updated: 2023-12-07 16:31:22 UTC

Created: 2018-12-17 19:16:16 UTC

This Garnishee therefore holds property of GAT subject to Supplemental Maritime Rule B garnishment and attachment.

26. **Bank of America, N.A.**: Kotor has reviewed records, including from independent investigation, showing GAT has or had accounts held by Bank of America, N.A. Kotor therefore reasonably believes this Garnishee owes accounts or holds property of GAT.

Count I

Breach of Maritime Contracts

27. Kotor repeats and incorporates paragraphs 1 through 26 above, as though fully set forth herein.

28. GAT breached the Charterparties as set out above.

29. Kotor therefore demands security for the award anticipated to be entered in its favor in the London maritime arbitrations ss set forth more fully below.

Count II

Process of Maritime Attachment and Garnishment

(Supplemental Rule B)

30. Kotor repeats and incorporates paragraphs 1 through 29 above, as though fully set forth herein.

31. Kotor seeks issuance of process of maritime attachment and garnishment, in order to obtain payment for the amounts due from GAT, and to secure the award anticipated in the London maritime arbitration

32. No security for Kotor's claims has been posted by GAT, or anyone acting on its behalf, to date.

33. GAT cannot be found within this District within the meaning of Rule

1 B and LAR B.2, but is believed to have, or will have during the pendency of this
2 action, property and/or assets in this jurisdiction consisting of cash, property
3 including intangible property, funds, and/or credits in the hands of one or more
4 garnishees in this District, including the Garnishees.

5 34. Kotor therefore respectfully requests the Court to issue writs of
6 maritime garnishment pursuant to Supplemental Rule B, in security of the
7 London maritime arbitration, as set out below.

8 **Prayer for Relief**

9 WHEREFORE, Kotor prays:

10 A. That as GAT cannot be found within this District, and pursuant to
11 Supplemental Rule B, this Court issue an Order directing the Clerk to issue
12 Process of Maritime Attachment and Garnishment in the amount of at least USD
13 1,782,392.35 (consisting of USD 228,437.01 in respect of the M/V
14 DVADESETPRVI MAJ, USD 591,605.25 in respect of the M/V KOTOR, and USD
15 64,350 in respect of the arrest in Italy as detailed above, plus interest pursuant
16 to section 49 of the U.K. Arbitration Act 1996 reasonably estimated to be at least
17 USD 400,000 over the typical 3-5 year course of the London maritime arbitration
18 proceedings, plus attorney's and arbitrators' fees and costs as provided in the
19 Charterparties and under English law, in the amount of at least USD 500,000)
20 (herein, the "Security Amount");

21 B. That Process provides for the attaching of all tangible or intangible
22 property, or any funds held by any Garnishee, up to the Security Amount to
23 secure Kotor's claims in the London maritime arbitration;

24 C. That any persons claiming any interest in the property attached by
25 such Process be cited to appear and, pursuant to Supplemental Rule B, answer
26 the matters alleged in this Verified Complaint;

27 D. That upon the Security Amount being garnished, the Court stay this
28 action pending the outcome of the London maritime arbitration and, on award

1 being issued by the arbitration panel, that this Court recognize that award and
2 enter judgment for Kotor, ordering that judgment upon recognition of the arbitral
3 award by this Court be paid from the Security Amount;

4 E. That a person over 18-years of age be appointed as moved for herein,
5 pursuant to Supplemental Rule B and Fed. R. Civ. P. 4(c), to serve Process of
6 Maritime Attachment and Garnishment; and

7 F. That this Court award Kotor such other and further relief that this Court
8 deems just and proper.

9 Date: September 30, 2024.

/s/ Neil B. Klein

Neil B. Klein

Maria del Rocio Ashby

McKasson & Klein LLP

Attorneys for Plaintiff Kotor

/s/ J. Stephen Simms

J. Stephen Simms

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[*Pro hac vice* application pending]

VERIFICATION

AFFIDAVIT THAT DEFENDANT IS NOT FOUND

WITHIN THE DISTRICT

I am a Principal of the law firm Simms Showers LLP, counsel for Kotor.

The facts alleged in the foregoing Complaint are true and correct to the best of my knowledge and information, based upon the records of Kotor as made available to me by Kotor. Kotor's authorized officers are not readily available in this District to make verifications on Kotor's behalf and I am authorized to make this verification on Kotor's behalf.

I further certify that, pursuant to Supplemental Rule B and LAR B.2 I caused a search to be made of electronic records and Directory Assistance for addresses and telephone numbers in this District. There is no record of any general or resident agent authorized to accept service of process for Defendant in this District.

Pursuant to 28 U.S.C. §1746(1), I solemnly declare under penalty of perjury that the foregoing is true and correct.

Executed on September 30, 2024.

/s/ J. Stephen Simms
J. Stephen Simms
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